

Subject: Processing of Contracts to Which the City is Party	Number: 4-1
	Date Issued/Revised: December 1, 1998
Responsible Department: City Attorney	Approved:

Purpose

To establish a policy and procedure for processing contracts to which the City is a party.

Policy

The policy for processing contracts to which the City is a party is that, generally, the Council must approve all contracts, and immediately following authorization by the Council, the lead Department responsible for the contract shall ensure that the contract is fully executed and that all other City policies regarding contracts are followed.

Procedures

1. "Contract" as used in this policy includes contracts, bid awards, leases, covenants, agreements, applications for grants, final executed grants, and every form of agreement entered into by the City with any public or private person or entity.
2. "Fully executed" within the meaning of this section means dated and signed by both parties, approved as to form by the City Attorney or compliance with Administrative Order 4-4, and attested by the City Clerk. Proper signatures (which include precise names of corporations and partnerships, and in some cases proof of authority of signers) and data are vital to the effectiveness of a contract and therefore required. (See Attachment "A," Instructions for Signature Page, and Attachment "B," Sample Signature Page.)
3. Prior to placement of a contract on the Council agenda, or before presenting to the person with authority to approve and sign the contract on behalf of the City, the following steps shall first be completed:
 - a. Ensure compliance with any applicable law or statute and any related contract to which the City is a party (i.e., Charter Section 1208, CEQA, CAL-OSHA etc.; grant agreements).
 - b. Ensure that all requirements regarding Administrative Order 2-1 are met.
 - c. Except as provided in Administrative Order 4-4:
 - (1) All contract language and format must be reviewed by the City Attorney before execution by either party. As a general rule, such review should occur before any city drafted contract is presented to the other party for review and consideration.

- (2) All contracts, except those with other public entities, shall be properly executed by the other party and any required insurance certificates approved in accordance with A.O. 2-1 prior to the stamped and initialed "approved as to form" by the City Attorney.
 - (3) As a general rule, all contracts should be executed by the other party and "approved as to form" by the City Attorney prior to placement on the Council agenda.
 - e. All contracts of major significance and/or a controversial nature shall be discussed with the Chief Administrative Officer prior to final preparation and execution by either party.
 - f. The City Attorney and/or the Chief Administrative Officer will approve any determination made as to who shall sign the contract for the City and whether or not the contract document itself shall be presented to Council for approval.
- 4. Contracts to be presented to Council shall follow the standard procedure for all Council items.
 - 5. Upon approval by Council, the remaining steps for a fully executed contract shall be completed. It is suggested that the individual authorized to sign the contract go to the Clerk's Office several days after approval by Council to sign, except in the event that the Chief Administrative Officer is authorized to execute the contract, in which event the City Clerk's Office will procure that signature. If this does not occur, the Clerk's Office will send the contract to the "Contact person for Contracts . . ." indicated on the Agenda Item Transmittal sheet. The contract should then be signed and all original signed copies shall be routed to the Clerk's Office to be attested. The contract is not fully executed until attested by the Clerk's Office. The signed original shall be placed on file in the City Clerk's Office.
 - 6. Following the attesting of contracts, the Clerk will retain one original signed copy for the official City records, and distribute all other original signed copies to the individual named in the "Contact Person for Contracts"
 - 7. It is the department's responsibility to distribute original signed contracts and copies of the contracts to the appropriate parties. This includes providing a copy of the contract to every City department involved in contract fulfillment.
 - 8. Following the approval and execution of a contract, the responsible department shall observe the requirements as applicable to the City's encumbrance policy and procedure governing contracts.
 - 9. In the event the Council approves a contract in concept and authorizes its execution in advance of the preparation of the contract, and/or if the finalized contract is not presented to Council, the executed contract (with the appropriate number of copies) shall be sent to the Clerk's Office to be attested. Following this, steps 6, 7, and 8 above shall be followed.
 - 10. Upon completion of contract the initiating Department shall be responsible for contacting the City Clerk by written notice of acceptance, completion or acquisition of materials (by purchase order sign-off date).

INSTRUCTIONS FOR SIGNATURE PAGE

CORPORATIONS: SIGNATURE AUTHORIZATION REQUIREMENT (See 5 (a) below.), INCLUDE ACKNOWLEDGMENT OF SIGNATURE BY NOTARY IN CORPORATE FORM IN APPROPRIATE INSTANCES.

INDIVIDUALS: SIGNATURE AUTHORIZATION REQUIREMENT (See 5 (b) below.), INCLUDE ACKNOWLEDGMENT OF SIGNATURE BY NOTARY IN APPROPRIATE INSTANCES.

PARTNERSHIPS OR JOINT VENTURES: SIGNATURE AUTHORIZATION REQUIREMENT (See 5 (c) and (d), respectively, below). INCLUDE ACKNOWLEDGMENT OF SIGNATURE BY NOTARY IN APPROPRIATE INSTANCES.

1. The name of the parties must be the same as that on the first page of your Agreement. If the party is a corporation, enter the exact name of the corporation under which it is incorporated; if party is an individual, enter name; if party is an individual operating under a trade name, enter name and dba (trade name in full); if a partnership, enter the correct trade style of the partnership; if a joint venture, enter exact names of entities joining in the venture.
2. Identify the character of the name shown under (1), i.e., corporation (including state of incorporation), individual, partnership, or joint venture.
3. Enter the respective addresses to which all communications and notices regarding the Agreement are to be addressed.
4. Insert the signature lines for the City Clerk to attest the City's execution and the City Attorney to approve the document as to form.
5. Insert sufficient number of signature lines to accommodate the parties (if a corporation, allow lines for 2 signatures). Each signature line should also include a line to print the name of the person signing and a line for the person's title.
 - (a) If the party is a corporation, the Agreement must be signed by the President or Vice President and by the Secretary or Assistant Secretary; or by an officer or employee authorized to sign contracts on behalf of the corporation evidenced by inclusion of one of the following: a copy of the Articles of Incorporation, a copy of the Bylaws, a certified copy of the Board Resolution or Minutes authorizing the officer or employee to sign contracts. Any certification shall be by the corporation's secretary. All signatures must be notarized in the corporate form in appropriate instances (e.g., contracts to be recorded).
 - (b) If the party is an individual, he/she must sign the Agreement; or if the Agreement is signed by an employee or agent on behalf of the party, a copy of a power of attorney must be provided. Any signature must be acknowledged by a notary in appropriate instances (e.g., contracts to be recorded).

- (c) If the party is a partnership, the Agreement must be signed by all general partners; or by a general partner(s) authorized to sign contracts on behalf of the partnership evidenced by inclusion of either a copy of the Partnership Agreement or a recorded Statement of Partnership. All signatures must be acknowledged by a notary in appropriate instances (e.g., contracts to be recorded).
- (d) If the party is a joint venture, the Agreement must be signed by all joint venturers; or by a joint venturer(s) authorized to sign contracts on behalf of the joint venture evidenced by inclusion of either a copy of the Joint Venture Agreement or a recorded Statement of Joint Venture; and if the joint venturer(s) is a corporation or partnership signing on behalf of the Joint Venture, then Paragraphs (a) and (c) above apply respectively. All signatures must be acknowledged by a notary in appropriate instances (e.g., contracts to be recorded).

SAMPLE SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California,
the day and year first above written.

CITY OF FRESNO
a Municipal Corporation

XXX, INC.
a California Corporation

By: _____
JEFFREY M. REID
Chief Administrative Officer

By: _____
Name: _____
Title: _____

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____
Name: _____
Title: _____

By: _____
Deputy

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
HILDA CANTÚ MONTOY
City Attorney

(Attach certificate of acknowledgment)

By: _____
Deputy

Addresses:

CITY:
City of Fresno
Department of
2600 Fresno Street
Fresno, CA 93721-1824

CONTRACTOR:
Xxx, Inc.
Street
City, CA Zip code

Subject: Request for Enforcement Action	Number: 4-2
	Date Issued/Revised: December 1, 1998
Responsible Department: City Attorney	Approved:

Purpose

To establish a uniform procedure for the issuance of a criminal complaint or the filing of a civil action or other enforcement action that will be undertaken by the City Attorney's Office.

Procedures

1. A written application (see attached form) should be made to the City Attorney's Office, setting forth the particular provision of law or contract thought to be violated, together with a full statement of all facts relied upon to establish such violation.
2. After submission of the application, the City Attorney's Office will, within two business days, either undertake the action or notify the department, in writing, of the reasons for their failure to do so.
3. The failure of a department to set forth all facts necessary to establish a violation will result in the rejection of the application, and the City Attorney's office will endeavor to point out where such application is defective so that it can be corrected.
4. With regard to the Police Department, the arrest report shall constitute the written application for complaints against persons who have been arrested and who are in custody. Immediate attention will be given to these requests by the City Attorney's Office.

REQUEST FOR ENFORCEMENT ACTION

TO: CITY ATTORNEY (Confidential) DATE: _____
FROM: _____ TITLE: _____
DEPARTMENT: _____ PHONE EXT.: _____

This is a request for (check one):

- 9 Issuance of a criminal complaint
- 9 Filing of a civil action
- 9 Other action, including _____

(Other action may include a warning letter, a "show cause" letter, etc.)

Whole true name of defendant, and whether an individual, partnership or corporation. If a partnership or corporation, give name and capacity of person or persons acting for it in the commission of the alleged offense.

Defendant's address: _____
(Home)

(Business)

Code section or other law violated: _____

Facts upon which request is based. State names of principals and witnesses; what was done and how; dates, places and reasons; the **source** of each fact. Criminal actions must be proven beyond a reasonable doubt upon sufficient legal evidence, therefore, the facts and how they are proved are equally important.

(over)

Request for Enforcement Action
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Additional facts and reasons, if any, justifying court action as opposed to other preliminary steps to achieve compliance with the code (failure to give facts or reasons may result in other action than that requested).

Name of person who will sign the criminal complaint: _____

Is the principal witness going on vacation, or other leave, soon? _____ When? _____

Attach any documents concerned. City forms and records will be returned at the end of action or upon request.

Subject: Requests for Legal Opinions	Number: 4-3 Date Issued/Revised: December 1, 1998
Responsible Department: City Attorney	Approved:

Purpose

To establish a procedure for coordinating requests for legal opinions from the City Attorney's Office.

Procedures

All requests for legal opinions are to be routed through the Chief Administrative Officer, to be signed off prior to forwarding to the City Attorney, in order to ensure administrative coordination from a central vantage point and avoid unintended conflicts or duplication of demands for services of the City Attorney.

Subject: Processing & Use of Standard Legal Documents	Number: 4-4
	Date Issued/Revised: December 1, 1998
Responsible Department: City Attorney	Approved:

Purpose

1. To establish and set forth uniform procedures for the creation and use of standard documents.
2. To clarify and streamline the procedures for the submittal, review and processing of documents to be standardized by the City Attorney's Office.
3. Standard documents include all City contracts, deeds and other legal forms approved by the City Attorney's Office, numbered and placed in the City Attorney Index of Standard Document (CAISD).

Procedures

1. Requests for Services
 - a. All requests for legal services should be made in accord with the attached Request/Authorization for Legal Services form (RLS).
2. Use of Standard Documents
 - a. No Authorization Required

Any contract, agreement, or other document that would require "Approval as to Form" by the City Attorney's Office may, with the approval of the City Attorney's Office and approval of any affected department, be converted to a standard document. Any approved standard document, when utilized as set forth in these procedures, can be submitted to Council without further approval from the City Attorney's Office. To implement this procedure, this instruction sets forth procedures and practices to be followed by all persons in requesting/utilizing standard documents.
 - b. Request for Standardization
 - (1) Any document may be submitted to the City Attorney's Office for review and consideration of the usage of such document as a standard document, by submission with a RLS.

- (2) The City Attorney's Office will review the request for standardization and, if it recommends approval of the standardization of the proposed document, the document shall be submitted to the City Attorney Contract Standardization Team.

c. Review by Contract Standardization Team

The Contract Standardization Team shall, with departmental input, review the document, make necessary revisions to bring it into compliance with the City Attorney's adopted form and number, and place the document in the City Attorney Index of Standard Documents.

d. Use of Standard Document

Once a document has been approved, numbered and placed in the CAISD, it may be used by the applicable City department without further approval of the City Attorney. Reference in staff reports should be made to the utilization of the standard document in lieu of further City Attorney approval as to form, and the document itself shall bear a CAISD number designated by the City Attorney's Office.

e. Required Disclaimer for Standard Document

Each standard document shall be subject to the following requirements:

- (1) There have been absolutely no modifications to the standard language, including, but not limited to, no word changes, no grammar changes, no punctuation changes, no addition or deletion of a single word, and no format changes: **and**
- (2) In lieu of the further approval/signature of the City Attorney, the standard document shall contain a certified statement from the department that no modifications have been made to the standard document. The following format shall be used:

No further approval/signature of City Attorney Required.
CAISD No. _____ has been used without
modifications, as certified by the undersigned.

Name of Staff Member
Department
Date

e. Modification of Standard Documents

Modifications to standard documents may be requested by the department and/or made from time-to-time by the City Attorney's office to reflect changes in the law, Council policy, or procedures. Once notified of approval of any modification, the department must immediately convert to the revised standard document. The original standard document shall no longer

be used, and its CAISD number shall no longer be valid for any purpose. The revised standard document shall receive a new CAISD number.

f. Review by Others

The use of a standard document shall not eliminate or modify in any way the requirements for staff review and consideration, the need for Council approval or execution of such document, nor shall the use of a standard document eliminate or modify in any way the review or approval of another department, division, or the compliance with any law or statute (i.e., Risk Management, CEQA). The sole intent and purpose of a standard document is to bypass the City Attorney draft review and approval/signature process.

**FRESNO CITY ATTORNEY'S OFFICE
REQUEST/AUTHORIZATION FOR LEGAL SERVICE***

Project Title	City Attorney Office Control Number
Department Contact	Phone
Description of Legal Service Being Requested	

Complete Either Section A or Section B Below	
SECTION A: Capital Project (CIP) Name	CIP Program Number (FAD)
SECTION B: Operating Program Name	Operating Index Number (FAMIS)
* No appropriations are necessary for legal services provided in support of operating programs. These legal service support costs are recovered through fixed interdepartmental charges.	

No service can or will be provided for this project unless this form is completed, and all information sought is supplied.

Estimates from the City Attorney available on request to cover all legal services and costs. When fee expenditures reach a certain level, a revised estimate for the completion of the project should be requested.

<p>I am authorized to request these services from the City Attorney and to identify the appropriate funding source in either Section A or Section B above. There are now and will be for the duration of this project sufficient funds to pay for the legal services requested.</p>		
Date	Department Signature	Title